RECENT CASES.

BANKRUPTCY—ATTORNEYS—ALLOWANCE.—PRATT v. BOTHE, 12 AM. B. R. 529.—*Held*, that the compensation allowed an involuntary bankrupt's attorney under the provisions of Sec. 60d of the American Bankruptcy Act relates to services to be rendered while the debtor is "in contemplation of bankruptcy," and not to services to be rendered after bankruptcy proceedings have commenced, compensation for which is provided for by Clause 3 of Sec. 64b.

Section 60d refers to such services as are to be rendered by an attorney, solicitor or practor for a person in contemplation of bankruptcy and they are a valid debt against the estate though not provable as a preferential claim. *In re Morris*, 11 Am. B. R. 145; *Re Laine*, 16 N. B. R. 168. Compensation for professional services rendered by an attorney after bankrupt proceedings have begun and by which the bankrupt is assisted in performing the duties imposed upon him, is provided for by Sec. 64b. *In re Carr*, 9 Am. B. R. 58; *In re Michel*, 1 Am. B. R. 665; *In re J. W. H. Mercantile Co.*, 2 Am. B. R. 420. There are no provisions made for compensation for services rendered by an attorney in general litigation or in the course of the debtor's business, but if rendered before bankrupt proceedings they are classed with the other claims against the estate; if after, and especially if rendered in resisting the creditors' petition for adjudication in bankruptcy, only those funds remaining after all debts are paid are subject to their liquidation. *In re Woodard*, 2 Am. B. R. 692; *In re Rosenthal*, 9 Am. B. R. 626. One of the objects of Congress in passing the Bankrupt Act was to give to creditors, rather than the agents and attorneys assisting the court and distributing the bankrupt estate, the favored place. *Re J. W. H. Mercantile Co.*, 2 Am. B. R. 420. As to an attorney's allowance in voluntary proceedings, see *In re Bock*, 1 Am. B. R. 535; and see *In re Hirschberg*, 2 Ben. 466, for construction of Sec. 64b. The doctrine announced in *In re Kross*, 3 Am. B. R., and disapproved by the court in the case under discussion is also distinctly denied in *In re Moyer*, 4 Am. B. R. 238; *In re Terrill*, 103 Fed. 781; *In re Anderson*, 103 Fed. 854.

BANKRUPTCY—CLAIM—CREDITOR PLEADING USURY AS DEFENSE.—IN RE WORTH, 12 AM. B. R. 566 (IOWA).—*Held*, that in a jurisdiction where the rule is that usury is personal to the borrower, creditors of the bankrupt cannot interpose usury against the claims of another creditor upon a contract to which they are neither parties nor privies.

The rule as to the persons who may interpose the defense of usury, whether strangers, parties, privies or the borrower himself, differs in the different states. Thus privilege of pleading usury is held to be personal to the borrower, *Yardley v. N. Y. G. & Ind. Co.*, Fed. Cas. No. 18125; *Loomis v. Eaton*, 32 Ch. 550; *Ohio & M. R. Co. v. Kasson*, 37 N. Y. 218. Where a state statute does not declare a usurious contract utterly void, it is valid as to strangers to the usury. *Fleckner v. U. S. Bank*, 21 U. S. 338. A trustee in